

1
2
3
4
5
6

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

7 UNITED STATES OF AMERICA,

Plaintiff,

8 v.

9 \$40,162.00 IN U.S. CURRENCY,

Defendant.

Case No. 2:12-cv-01025-JAD-PAL

REPORT OF FINDINGS AND
RECOMMENDATION

12 This matter is before the court on Claimant Justin Swartz's failure to comply with this
13 court's Order (Dkt. #14) and Order to Show Cause (Dkt. #16).

14 On October 23, 2013, the court granted attorney Gabriel Grasso's motion to withdraw as
15 counsel of record and gave Mr. Swartz until November 22, 2013, in which to retain counsel or
16 file a notice with the court that he would appear in this matter pro se. *See* Order (Dkt. #14). The
17 Order directed the Clerk of the Court to serve Mr. Swartz with a copy of the order at his last
18 known address provided by his former counsel, and advised Swartz that his failure to timely
19 comply with the order may result in a recommendation to the district judge for sanctions,
20 including the case-dispositive sanction of striking Swartz's Answer (Dkt. #7). Swartz failed to
21 either retain counsel or file a notice with the court that he would appear in this matter pro se and
22 did not request an extension of time in which to comply with the court's Order.

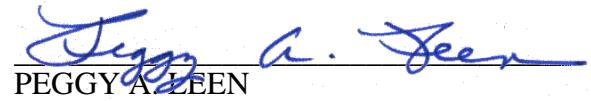
23 On March 17, 2014, the court entered an Order to Show Cause (Dkt. #16) based on
24 Swartz's failure to comply with the court's previous Order. The court directed Swartz to show
25 cause in writing no later than April 14, 2014, why he had not complied with the court's Order.
26 Swartz has failed to file a response to the Order to Show Cause, and he has not requested an
27 extension of time in which to do so. Swartz's willful failure to comply with the court's Orders is
28 an abusive litigation practice that has interfered with the court's ability to hear this case, delayed

1 litigation, disrupted the court's timely management of its docket, wasted judicial resources, and
2 threatened the integrity of the court's orders and the orderly administration of justice. Sanctions
3 less drastic than striking Swartz's Answer are unavailable because Swartz has wilfully refused to
4 comply with multiple court Orders and the Local Rules of Practice.

5 Accordingly,

6 **IT IS RECOMMENDED** that Claimant Justin Swartz's Answer (Dkt. #7) be
7 STRICKEN unless Swartz either retains counsel or files a notice that he will proceed pro se on
8 or before **May 22, 2014**.

9 Dated this 22nd day of April, 2014.

10 
11 PEGGY A. TEER
12 UNITED STATES MAGISTRATE JUDGE
13
14

15 **NOTICE**

16 These findings and recommendations are submitted to the United States District Judge
17 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
18 after being served with these findings and recommendations, any party may file written
19 objections with the court. Pursuant to Local Rule of Practice (LR) IB 3-2(a), any party wishing
20 to object to the findings and recommendations of a magistrate judge shall file and serve *specific*
21 *written objections* together with points and authorities in support of those objections, within
22 fourteen days of the date of service of the findings and recommendations. The document should
23 be captioned "Objections to Magistrate Judge's Findings and Recommendations." The parties
24 are advised that failure to file objections within the specified time may waive the right to appeal
25 the District Court's Order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). The points and
26 authorities filed in support of the specific written objections are subject to the page limitations
27 found in LR 7-4.